

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

-----X CASE NO.: 19-71697-ast

In re:

CHAPTER 13

John Francis Vivenzio
dba Vivenzio Associates, LLC
dba Intelintix Software,

Judge Alan S. Trust

Debtor.

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JOINT STATEMENT OF UNDISPUTED FACTS

This stipulated Joint Statement of Undisputed Facts is entered into by and between (i) John Francis Vivenzio (the “Debtor”); (ii) Marianne DeRosa (the “Chapter 13 Trustee”) and (iii) Selene Finance, LP as servicer for NJCC-NYS Community Restoration Fund, LLC (“Selene,” together with the Debtor and Chapter 13 Trustee, the “Parties”).

On July 28, 2020, this Court entered an Order Setting Evidentiary Hearing By Video Conference and Establishing Deadlines providing, *inter alia*, that the Parties should provide a joint statement of facts no later than 2 business day prior to the August 17, 2020 Evidentiary Hearing (ECF Doc. No. 48, the “Scheduling Order”). The instant Joint Statement of Undisputed Facts is responsive to said Scheduling Order.

The Parties hereby stipulate the following facts:

1. On March 8, 2019, the Debtor filed a voluntary Petition for relief under Chapter 13 of the Bankruptcy Code (ECF Doc. No. 1, the “Petition”).
2. On April 12, 2019 the Chapter 13 Trustee filed a Motion to Dismiss (“Dismissal Motion”) with a hearing scheduled for May 2, 2019 which was subsequently adjourned to June 13, 2019.

3. The debtor filed a response in opposition to the Dismissal Motion on May 1, 2019.
4. On May 6, 2019 Selene filed a timely Proof of Claim with respect to the property located at 153 Quaker Path, E Setauket NY 11733 (Claim 5 on the Claims Register, the “Claim”).
5. The hearing on the Dismissal Motion was held on June 13, 2019. The motion was granted and the Chapter 13 Trustee was directed by the Court to settle an order on 21 days’ notice.
6. On July 3, 2019 the Debtor filed an objection to Selene’s Claim challenging, *inter alia*, Selene’s standing to file the Claim (the “Claim Objection”).
7. The Chapter 13 Trustee filed a Notice of Settlement of Proposed Order dismissing the case on July 8, 2019 (the “Proposed Dismissal Order”).
8. On July 17, 2019 the Debtor filed an objection to the Proposed Dismissal Order.
9. On August 19, 2019 Selene filed an affirmation in opposition to the Claim Objection.
10. The Court held a hearing on August 29, 2019 to consider the Claim Objection and the Proposed Dismissal Order. The Court was to issue an Order on feasibility.
11. On February 24, 2020 Selene filed a Motion for Relief from the Automatic Stay with respect to the property located at 153 Quaker Path, E Setauket NY 11733 (the “Lift Stay Motion”) with a hearing scheduled for March 19, 2020. The hearing was subsequently adjourned to April 16, 2020.
12. On March 12, 2020 the Debtor filed opposition to the Lift Stay Motion challenging, *inter alia*, Selene’s standing to file the motion.

13. On April 16, 2020 the hearing on the Lift Stay Motion was held. The Parties appeared and the Honorable Alan S. Trust directed Selene to file an Affidavit of Note Possession and directed the Debtor to submit \$17,500.00 to the Chapter 13 Trustee. The Lift Stay Motion was marked submitted.
14. On May 12, 2020 Selene filed an Affidavit of Note Possession signed by Genevieve Jacobs, bankruptcy specialist for Selene Finance, LP (ECF DOC. No. 44, the “Affidavit of Note Possession”).
15. On May 19, 2020 the Debtor filed an Affidavit in Support of the Debtor’s Objection to the Lift Stay Motion and an Opposition to the Affidavit of Note Possession (ECF Doc. No. 46)
16. The Chapter 13 Trustee filed an Affirmation of Compliance on June 18, 2020 confirming that the Debtor submitted funds in the amount of \$17,500.00
17. On July 28, 2020 the Court entered an Order Setting Evidentiary Hearing By Video Conference and Establishing Deadlines with a hearing scheduled for August 17, 2020.

IT IS SO STIPULATED.

Henry P. DiStefano

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Date: August 13, 2020

Garden City, NY

/s/ Nathan Kaufman

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Date: August 13, 2020

Jericho, NY

/s/ John Francis Vivenzio

John Francis Vivenzio
Debtor
153 Quaker Path
Setauket, NY 11733
Date: August 13, 2020